

Fremont Conservation Commission
01-07-08 Minutes



Fremont Conservation Commission

Minutes of January 7, 2008

Approved February 4, 2008

Present: Chairman Jack Karcz, Members Janice O'Brien, Bill Knee and Tina Sturdivant, Alternate Pat deBeer and Recording Secretary Meredith Bolduc.

At 7:35 pm Chrm. Karcz opened the meeting and appointed Alt. deBeer as a voting member for this meeting.

MINUTES

Mbr. O'Brien made the motion to accept the minutes of the December 3, 2007 meeting as written. The motion was seconded by Mbr. Sturdivant with unanimous favorable vote.

CAPITAL IMPROVEMENTS PROGRAM (CIP)

Chrm. Karcz stated that the Commission has received a December 12, 2007 correspondence from the Planning Board relating that they are again looking to update the CIP. The 2008 CIP worksheet was also included. Capital expenditures as they would pertain to the Conservation Commission were discussed and it was agreed to fill out the form indicating land purchase as a Conservation Commission capital expenditure.

NATURAL RESOURCES OUTREACH COALITION (NROC)/ NRI

Chrm. Karcz reported that the replacement CD of the NRI text submitted by Theresa Walker has been corrected and updated. Alt. deBeer said that if there is time she may have more to add to the document. Mrs. Bolduc stated that Robert Pruyne of RPC was given the project of updating the NRI maps with a completion date of October 31, 2007. However, due to time constraints Fremont's RPC Circuit Rider David West has taken over the project and he indicated in a phone conversation today that the maps will be printed soon.

ERLAC

Signs

Mbr. Sturdivant reported that she has spoken with Laura Weit at DES about ordering one additional river sign and protected river sign for the rail trail. It should be in soon.

Annual Report

Mbr. Sturdivant shared the Exeter River Local Advisory Committee 2007 Annual Report with the Commission. The accomplishments listed in the report included partnerships formed with several organizations, including the Rockingham Planning Commission, NH Department of Environmental Services, NH Coastal Program, and NH Estuaries Project. These partnerships provide ERLAC with an opportunity to work with local Conservation Commissions to advocate effectively for protection of natural resources throughout the watershed. Events and accomplishments listed were:

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1. The partnership with the Fremont Conservation Commission to hold the seventh annual vernal pool workshop in May.
2. The Exeter River Alewife Festival and canoe and kayak race held in June.
3. Several ERLAC members spent the summer working with the NH Coastal Program to collect and identify macroinvertebrates in the Exeter River and its tributaries. Results from these sampling programs will be available in early 2008 on ERLAC's website, www.exeterriver.org.
4. The Sandown Conservation Commission and NH Department of Environmental Services macroinvertebrates workshop in October.
5. Working with the NH Department of Environmental Services and the consulting firm Geosyntec on a Watershed Restoration Plan, the first phase of which, a Vulnerability Analysis, has been completed and identifies sections of the Exeter River and the watershed most impacted by development. The next phase of the project will involve management and restoration plans for these areas.

Chrm. Karcz reported that the Commission has received the invoice for the 2008 Annual ERLAC dues. Mrs. Bolduc reported that she contacted Theresa Walker at RPC relative to why it was sent so early and related that Fremont remitted the 2007 dues in August. Mrs. Walker answered that the invoices were sent early in the year for planning purposes and they could be paid anytime during the year.

GLEN OAKES

The December 7, 2007 Owl Walk at the Glen Oakes Conservation Area was discussed. Mbr. Sturdivant reported that the walk was attended by 30 people and eight "Owl Walk" surveys were returned with positive comments and suggestions. She said that she had spoken with other people who were interested, but could not make it to this one. Mbr. O'Brien added that the event was well attended and she enjoyed it with many others.

Mbr. O'Brien stated that forester Charlie Moreno has been in the Glen Oakes area at least twice within the last 2 weeks. One of the things he is doing is blocking off sections for species inventory. She reported that when she and her husband were snowshoeing in the area they saw tracks of many wild animals including moose, cottontail, fisher cat and bobcat. Mbr. O'Brien stated that one of the ordinance signs at the far end is missing. They did not encounter any snowmobile tracks. Mbr. Sturdivant reported that she has seen the tracks of a tracked vehicle.

HOUSE BILLS

The members discussed several pending Legislative Bills including:

1. **HB 1269** *"gives local governing bodies the authority after consulting with the conservation commission, to place certain properties on a conservation priority list, and requires that owners of property on the conservation priority list send notification to the local governing body 60 days before offering the property for sale."*
2. **SB 381** *"authorizes cities and towns to elect conservation commission members."*

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COMPREHENSIVE SHORELAND PROTECTION ACT

Chrm. Karcz reported that the Building Official recently attended a DES workshop on the amendments to the Comprehensive Shoreland Protection Act (HB 483). The amendments are to take effect on April 1, 2008 and rivers of 4th order or higher will be affected, but those rivers have not yet been identified so it is not known if the Exeter River will be included.

TREASURERS REPORT

Chrm. Karcz reported that the Commission received the 2007 year end Conservation Commission account balances with interest earned reflected in all accounts. Also included was a print-out of the interest for the last 3 months of 2007 and a year end accounts interest earned report.

Treasurer Kimberly Dunbar has related that the NH Public Deposit Investment Pool is offering a much better interest rate (4.8%) than the bank (2.94%) and she suggested to move the accounts, including the CD when it matures. The checking account would remain with the bank as the NH PDIP does not offer checking services. Mrs. Dunbar was contacted via phone during the meeting and she explained that the NH PDIP is the government investment pool, FDIC insured and is used by the Town for all bonds, escrows, impact fees and the funds are readily accessible.

After some discussion Mbr. Knee made the motion that the Conservation Commission direct Town Treasurer Kimberly Dunbar to move the Conservation related accounts to the NH Public Deposit Investment Pool.

Motion seconded by Mbr. O'Brien with unanimous favorable vote.

BUDGET

The Commission received and reviewed:

1. The General Leger expenditure report for the date ending December 28, 2007. Chrm. Karcz reported that the line item transfer requests approved at the last meeting have been submitted to the Selectmen's office.
2. A December 20, 2007 correspondence from Town Administrator Heidi Carlson relating that the total amount of funds remitted to the Conservation Residual Account from the remainder of the 2007 budget appropriated funds is \$1,360.90.
3. A December 27, 2007 correspondence from Heidi relating that the total amount of funds remitted to the Conservation Account fund for fiscal 2007 land use change tax dollars is \$26,250.00. This sum represents the formula of 50% over the first \$10,000.00 collected. She also submitted the Tax Collector information used to arrive at that figure.

DELOVO, LLC

Map 7 Lot 070

The Commission received a comment sheet and a drawn plan from the ZBA relative to Delovo, LLC, Map 7 Lot 070, 58 Riverside Drive for an application for an Equitable Waiver of Dimensional Requirements to be allowed to maintain the location of an existing deck closer than twenty (20) feet from a rear lot line and existing steps closer than thirty (30) feet to a street property line. The Members had no comment.

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IAONNIS KAKOURIS / ROBERT PREMONT
Map 3 Lot 119

The Commission received a comment sheet and plan from the ZBA relative to Iannis Kakouris (owner) & Robert Premont (applicant), Map 3 Lot 119, 431 Main Street for:

1. Special Exception to the terms of Article IX Section H of the Fremont Zoning Ordinance to allow an existing access way previously approved as a septic/leaching field access way, which passes through a watershed protection district, to include use as a residential driveway. There will be no further filling of wetland.
2. Area Variance to the terms of Article IV Section 2 of the Fremont Zoning Ordinance to allow a building lot to be created with no frontage on a Federal, State or Town highway.

Chrm. Karcz noted that, as per the October 15, 2007 Conservation Commission minutes, the Members had received an October 3, 2007 correspondence from Surveyor Tim Lavelle, representing Robert Premont and Ioannis Kakouris, requesting a referral from the Conservation Commission to the ZBA, as directed per Zoning Article IX Section H and after reviewing the plan, the Commission issued the referral at that time with some reservation in that the full extent of the plan was unknown due to lack of submission of complete information.

There was a conversation relative to:

1. Creating a building lot with no frontage.
2. The requested change in use of the existing wetland crossing, which was previously approved for access to a leaching/septic area, to be additionally used for a residential driveway. This would be an access easement across the front property created by a subdivision.
3. The Conservation Easement that is currently attached to the property. There is some confusion as to the actual easement area. The easement document identifies the easement property as "Property as more specifically described in Schedule A attached hereto of the nature and character and to the extent hereinafter set forth ("Easement")". Schedule A reads "A certain parcel of land being known as Lot 119 on Plan entitled "Lot Merger Plan for the Fremont Pizzeria, 431 Main Street in Fremont, New Hampshire, Tax Map 3, Lot 119 dated May 12, 2004 and recorded at the Rockingham County Registry of Deeds as Plan No. D-31624." The use limitations state that "the easement property shall not be further subdivided". The plan, however, shows a 250' Conservation Easement along the Exeter River. The Members agreed that Town Counsel should be contacted to clarify the language of the easement.

After lengthy discussion there was a general consensus that the intent of the easement was for the 250' along the river. However, Mr. Knee remembered that at the site walk one of the owners stated that they had no intention of using the land for any purpose and therefore offered to put the land into conservation easement, so he feels that the intent was the entire property as it is described in schedule A of the easement deed. He noted that the owners attorney drafted the easement and the owners signed it.

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With the agreement of the Members, Chrm. Karcz wrote on the comment sheet “The Conservation Commission has asked for legal opinion from the Town Counsel on the easement restriction on this property. We are also not in favor of changing the gravel access road to a driveway, nor do we favor creating a building lot with no frontage.”

SCRIBNER ESTATES

Map 2 Lot 001

Chrm. Karcz related that the Scribner Estates Conservation Easement referenced as Easement #13 on the subdivision plan approved in June 2003 and recorded as #D-31121 has still not been drawn and done. The lots affected by this easement are shown as Map 2 Lots 1-7, 1-8, 1-9, 1-10, and 1-11 and a condition of the June 25, 2003 Planning Board subdivision approval was a “Conservation easement deeded prior to building permits issued for applicable lots”. It was also stated in those minutes that all conditions were to have been met within 90 days of the approval. According to the July 7, 2003 Conservation Commission minutes owner Daniel Perry was to have the easement drawn and the Conservation Commission was to reimburse him the expenses. In January of 2007 a letter was sent to Mr. Perry from the Building Official reminding him of the easement agreement and in March of 2007 Mr. Perry visited the Land Use Office and was given a copy of a sample easement. Mr. Perry has not submitted the easement deed.

After some conversation, it was agreed that Mr. Perry again be contacted with a request that he adhere to the agreement (and subdivision approval condition) to draw an easement(s) for the parcels affected and submit them to the Conservation Commission for approval and signatures. The alternative was that the Commission could consult with Town Counsel to have the easements drawn up for Mr. Perry’s approval and signature to facilitate the resolution of this issue.

It was noted that one of the lots has been sold. Mbr. O’Brien felt that the developer should be responsible for obtaining the signature and agreement of the owners of the property that has already been conveyed. The Members agreed. Mbr. O’Brien also questioned whether the condition of the Conservation Easement not having been met could void the subdivision approval.

The Members agreed that Town Counsel John Ryan be contacted for an opinion relative to 1) if the condition of the subdivision is not met does it make the subdivision approval avoid and 2) how to deal with the easement for the lot that has already been conveyed.

INCOMING CORRESPONDENCE

1. A December 26, 2007 E-mail notification from NH DES that New Hampshire is one of three states selected to receive federal assistance to address the challenges posed by growth with respect to protecting water resources. The assistance will come primarily in the form of technical expertise from four national organizations: The Trust for Public Land, the Smart Growth Leadership Institute, the Association of Drinking Water Administrators, and River Network. The expert assistance will be provided through a grant from the U.S. Environmental Protection Agency. The project is expected to run from January through the fall of 2008 and

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according to OEP Director Amy Ignatius. "This project will help the state come up with new and creative ideas to achieve both our growth management and resource protection goals,"

Mbr. Sturdivant made the motion to adjourn at 10:10 pm.
Motion seconded by Alt deBeer with unanimous favorable vote.

Respectfully submitted,

Meredith Bolduc